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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-third session

SUMMARY RECORD OF THE 610th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 25 January 2000, at 3 p.m.

Chairperson: Mr. DOEK

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GE.00-40540 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Initial report of South Africa [CRC/C/51/Add.2; HRI/CORE/1/92; CRC/C/Q/SAFR.1; Written replies of the Government of South Africa to the questions raised in the list of issues (document without a symbol distributed in the meeting room in English only)] (continued)

1. At the invitation of the Chairperson, the members of the delegation of South Africa resumed their places at the Committee table.

2. Ms. TIGERSTEDT-TÄHTELÄ said that the State budget should be a means of transferring funds for the use of vulnerable groups, in particular children. According to information she had obtained, one of the Government's priorities should be land redistribution; the former Government's land policy had led to gross disparities and discrimination, and to ghettoization of the poor in rural areas.

3. Ms. RILANTONO noted that the definition of the child varied from one legal instrument to another; the age for deciding to terminate a pregnancy was 18 in some instruments and 21 in others. It was important to harmonize the various national instruments by bringing them into line with the Convention.

4. The Government had adopted a reconstruction and development programme and objectives to the year 2005 in the field of education, but, regrettably, had not allocated a separate budget to children's issues or set objectives in terms of health indicators, in particular reduction of mortality rates. Information on the repercussions of the macroeconomic policies on children would be welcome.

5. Efforts should also be made to encourage birth registration. Did the Government organize training sessions for registry officials and campaigns to raise awareness of the importance of birth registration?

6. Despite a non-discrimination clause in the Constitution, there were still blatant disparities between the white and black and urban and rural populations.

7. Ms. OUEDRAOGO pointed out that monitoring of girls' virginity in certain regions of the country constituted discrimination against girls and a violation of the right to privacy and the right to physical integrity. Despite the fact that voluntary termination of pregnancy had been legalized in order to avoid criminal abortions, a large number of criminal abortions still appeared to be practised.

8. The rights to life, survival and development were also jeopardized by crime and insecurity, which were increasing. What had been the results of the programmes conducted to combat those problems, and were there plans to launch new local and provincial programmes to help the disadvantaged areas?

9. Civil and political rights, in particular the right to nationality, were also being violated. According to information from outside sources, some children born in exile were still not considered to be citizens, preservation of identity was not guaranteed after a second marriage and many children were still without a nationality.

10. Also according to outside sources, the exercise of the right to freedom of expression in school met with resistance from some teachers, and children's testimony to the Truth and Reconciliation Commission had not been acted upon. Could the delegation provide further information on those subjects? Could it also provide clarifications on the number of members, functioning and decisions of the Children's Parliament and on the required age for establishing or joining an association?

11. Overcrowding in institutions, schools, prisons and even families living in excessively small quarters constituted a breach of the right to privacy; she wondered whether the Government was planning a programme of action to combat housing problems.

12. There were deficiencies in the school system, in particular the lack of libraries and the continued use of corporal punishment and psychological violence. How did the authorities ensure the implementation of the new law abolishing corporal punishment? In particular, was there a system for monitoring schools, providing refresher training for teachers and lodging complaints?

13. The CHAIRPERSON welcomed the fact that the legislation explicitly prohibited corporal punishment in the schools, but asked whether the same was true for other establishments where children were placed. He would also welcome information about the exercise of parental authority in case of separation of the parents, especially the means used to guarantee that children, even those born out of wedlock, remained in contact with the parent not having custody and received maintenance.

14. Regarding placement of children, he asked how and by whom foster families were chosen when placement was necessary and how maintenance of ties with the natural family was guaranteed. In many provinces, there were reportedly an insufficient number of places available in institutions, which forced some children to go far away from their region of origin; could the delegation provide recent information about conditions of placement?

15. Ms. KARP asked whether HIV tests were confidential and anonymous. She was concerned at the major problem which domestic violence represented in South Africa, and asked to which authorities victims could submit complaints and whether the authorities were specially trained to cope with that type of problem.

The meeting was suspended at 3.35 p.m. and resumed at 3.45 p.m.

16. Mr. PAHAD (South Africa) said that South Africa had not concluded any structural adjustment agreements, as the Government felt that the budgetary deficit, currently at 2.5 per cent, was already considerable and that borrowing funds from the World Bank would amount to placing a heavy burden on future generations. That having been said, with 46.9 per cent of its budget devoted to social spending, South Africa was already in a good

position in comparison with other countries. According to the statistics, three provinces were much poorer than the others and on that basis were given more subsidies. The people did not appear to regard land redistribution as a priority issue, as a political party which had based its campaign on land redistribution in the 1994 elections had received only 2 per cent of the votes.

17. South Africa pursued a two-pronged policy of sustainable rural development and urban renewal, as part of a comprehensive effort to combat poverty.

18. Protection of privacy was closely linked to the level of socioeconomic development, and improvement of families' housing conditions always brought with it a decrease in overcrowding.

19. The South African Human Rights Commission, to which the State assigned an annual budget of 16 million rand, also received contributions from various donors. No Government interference in the activities of the Commission, which was an independent institution guaranteed by the Constitution, was tolerated. The members of the South African Human Rights Commission were appointed by the President, on the basis of recommendations by Parliament. The Government did not have statistical data on the international aid received by the ONGs working on behalf of children, as the funds were paid directly to them by different bodies, such as UNICEF, a practice the Government encouraged.

20. No official evaluation of the implementation of legislation concerning children was conducted in South Africa, but some follow-up was provided by the different services in question.

21. The authorities sought to encourage participation in school boards by parents, in particular those in working-class or unemployed sectors, to enable them to see for themselves how teachers were performing.

22. Ms. MKHWANAZI-XALUVA (South Africa) said that no specific research had yet been conducted on the effects of polygamous marriages on children. When questioned about genital mutilation of little girls, no member of the medical corps had been able to cite a specific case, but the issue would be duly studied by the competent services.

23. Action to combat discrimination against girls would be given special attention in the framework of the National Programme of Action for Children covering the next five years. Provisions had been adopted to prohibit the use of corporal punishment in schools and care institutions, but it was difficult to monitor family practices. For that reason the authorities planned to launch a large-scale campaign to raise parents' awareness of the harmful effects of even the mildest corporal punishment on children.

24. The close ties between the Government and the National Children's Rights Committee (NCRC) were historical in origin, as many members of the current Government had been members of the NCRC; however, the Committee was given the leeway and independence it needed in order to make a critical judgement of the Government's actions. There was no system for registering complaints by children, but NGOs and the South African Human Rights Commission helped the Government to evaluate the situation regularly. One of the duties of the Children's Desk of the Office of the President was to promote children's participation in public

life, and the Government of South Africa would welcome any suggestion from other countries or the Committee in that area, in preparation for the eventual establishment of a children's parliament.

25. Ms. SWEPAUL (South Africa) said that the Government, anxious to enforce the legal obligation to provide maintenance, had in late 1999 introduced a new Maintenance Act, which made no distinction between children born to married parents and children born out of wedlock. The Act provided complainants with a number of rights regarding recovery of maintenance. However, it was too early to make an initial assessment of its implementation. The 1997 Divorce Courts Amendment bill extended to all family courts the power of the Office of the Family Advocate, who was responsible for ensuring the best interests of the child in case of the parents' divorce.

26. Ms. DAVIDS (South Africa) said that institutional placement was a long-established practice in South Africa. The State funded the welfare bodies responsible for children's care. A parents' association worked to improve the placement services and to ensure stability of placement for children in institutions or foster families through the age of 18. Project GO, based on a document of the Inter-Ministerial Committee on Young People at Risk (IMC) describing the transformation of the child and youth care system, had significantly improved the situation of children in need of alternative care. The authorities also endeavoured to elaborate strategies to encourage the placement and adoption of HIV-positive orphans or orphans with AIDS within the extended family and in the community. Allowances for foster children were paid to families which complied with the required administrative formalities. Lastly, to improve the social status of foster families and draw attention to the important role they played in society, the first Sunday in March had been declared National Foster Parent Day.

27. Mr. VIVIERS (South Africa) said that although the National Youth Commission was responsible for formulating and coordinating policies on young people from 16 to 35 years of age, an individual was considered to be a child only through the age of 18, in accordance with the Constitution and the Convention. The recently amended Child Care Act set forth penalties for corporal punishment and all forms of violence against children, including solitary confinement of children, which was occasionally applied in certain State institutions. Care institutions were regularly monitored with a view to punishing practices of that type. Among the objectives of the transformation of the child and youth care system were better distribution of institutions among the different provinces and placement of children as close as possible to their families or their place of origin. Careful attention was paid to the staff of such institutions, from the standpoint of both quantity and training.

28. Mr. BAH (South Africa) said that in recent years the Ministry of Health had emphasized the importance of birth registration by establishing a national birth registration committee and provincial birth registration committees. Workshops had been held in the provinces to encourage the people to register births through mobile registration units. The statistics already reflected an increase in registered births. Measures had also been taken to set up a statistical database on children with a view to following up the implementation of the Convention. Data would also be collected on the children of divorced couples.

29. Ms. de KLERK (South Africa) said that the maternal mortality rate remained very high in South Africa and that the new decree on termination of pregnancies was aimed at protecting women by ending criminal abortions. Despite the decree criminal abortions remained widespread and had caused the deaths of 43 women in 1999 possibly because women were unaware of the decree or because they feared rejection by their families or members of the medical profession. Measures had therefore been taken to disseminate the decree, and abortion was free in the public hospitals. Minors who requested an abortion received counselling and did not need their parents' consent.

30. There were no immediate plans to make HIV/AIDS testing compulsory. Tests were conducted in schools, and information and prevention work was carried out with the children. An attempt was made to keep the identity of AIDS sufferers confidential in order to protect their privacy.

31. Ms. KEMP (South Africa) said that measures had been taken to raise teachers' awareness of the importance of listening to their pupils. A new teacher evaluation system had been introduced, and skills and quality of teaching were now given priority. School boards played a very important role in receiving complaints and monitoring teacher training. Overcrowded classes were a heritage from the past, and the Government was working to rectify that problem, in cooperation with NGOs.

32. Pupils were encouraged to evaluate the media by reading newspapers from a critical standpoint. In recent years pupils had begun to express their views and to write to the newspapers in order to put forward their opinions.

33. Corporal punishment had been abolished, and teacher-training programmes had been established aimed at showing that there were other ways of enforcing discipline. Complaints submitted to school administrations against teachers who continued to use corporal punishment could lead to disciplinary sanctions. Parents and the community were encouraged to report cases of corporal punishment.

34. The invasion of privacy represented by the monitoring of girls' virginity in some regions was an intensely debated subject. The girls were examined by old women, in private, and the Ministry of Health worked to raise awareness of the need to respect hygiene and children's rights in that context.

35. Ms. PIENAAR (South Africa) said that the South African police had established numerous practical crime prevention programmes. Punishment of offences against women and children was a priority for the police services; with that in mind they had set up units comprising community and police representatives, within the police stations, to study various crime-related issues. Pursuant to a decree on domestic violence, the police focused on support for victims, in particular women and children. Television programmes were broadcast for police officers in order to familiarize them with the new legislation, and information workshops on the new decree against domestic violence had been organized; police officers who did not implement the decree were liable to prosecution. Police stations often had a space for victims which served as an area of communication.

36. The Child Care Unit had been replaced in 1995 by the Unit to Combat Domestic and Sexual Violence and Protect Children. It worked in partnership with many NGOs and grass-roots organizations and was responsible for evaluating needs regarding placement in institutions; the placements themselves were conducted by NGOs with State funding. The new Act empowered the Unit to act even when the victim had not submitted a complaint.

37. Ms. HEYNS (South Africa) explained that the implementation of the decree was coordinated at the provincial level. The victims' rehabilitation programme was under the responsibility of the Welfare Department. Discussion groups had been set up, also at the provincial level.

38. Consultations were being held with certain countries, such as France and Scotland, where children's parliaments had been set up. South Africa wished to establish a reliable permanent structure of that kind, to which end studies were being conducted.

39. Mr. PAHAD (South Africa) acknowledged that, despite the efforts already undertaken, much remained to be done to ensure the implementation of the Convention, as the changing of attitudes required time and information and advocacy work in the field. For example, it had been very difficult to make people, especially religious groups, accept the idea of terminating pregnancies.

40. The CHAIRPERSON said that South Africa should focus its efforts on the progressive introduction of a society of respect for children's rights. The Government made little effort to influence the media in general, and television in particular, whereas the media could make a valuable contribution to changing attitudes, and it would therefore be useful to know who ran them. An international conference on negligence and ill-treatment of children would be held in September 2000 in Dublin, and South Africa would benefit from attending it.

41. Ms. OUEDRAOGO welcomed the fact that South Africa, which was in the midst of a process of transforming and elaborating its policies and programmes, had opted for self-adjustment rather than a structural adjustment programme sponsored by the World Bank, the beginning of a vicious circle of indebtedness.

42. The family courts set up in several provinces appeared to be experimental, and she would like to know how it was planned to establish more of them and what had been the results of the existing courts, especially in divorce cases. She would also like to know whether a family experiencing difficulties due to failure to pay maintenance was entitled to a welfare benefit.

43. It was possible to annul an adoption, but she regretted that the request could not come from the child himself; that situation was not in keeping with the provisions of the Convention, which stipulated that the views of the child must be heard. She would welcome further information on the modalities for periodic review of foster placement. The children's courts could not amend their decisions, which could only be modified through administrative channels. That meant that changes could take place at all levels and in an unsupervised manner, which was disturbing. In addition, children were not entitled to express their opinions when administrative changes were made affecting them, which was not in conformity with the Convention. Clarifications concerning the new legislation would therefore be welcome.

44. She asked whether the fact that a large number of children had to leave the family in which they had been placed was due to an error in evaluating the foster families and whether the children concerned were eventually institutionalized.

45. She asked how the decentralized primary health care services functioned and whether they included coordination, follow-up and assessment activities. Lastly, she would like to know what steps had been taken to guarantee young people's access to services of the family planning centres on a fully confidential basis.

46. She asked why the incidence of AIDS among teenagers 15 to 19 years old was so high: was it because young people did not believe the disease existed and did not take seriously the programmes which targeted them? She would also like to know whether provisions had been taken to promote female condoms and to facilitate the access of HIV-positive pregnant women to AZT treatments. Lastly, she asked how young people, especially those in rural areas, were recruited to join the programme to combat AIDS and sexually transmitted diseases, given the multilingualism and illiteracy which prevailed in most of the country.

47. Ms. KARP, referring to measures to prohibit corporal punishment, said that the State party might ask the European Union, which had developed a programme of action in that area, to help it determine an effective strategy. She would also like to know how the recommendations of the Truth and Reconciliation Commission concerning police brutality would be implemented, and, generally speaking, what measures the Government intended to take to end it.

48. Concerning the decentralization of activities relating to young people, she asked whether measures had been taken to give local Governments and NGOs the financial and human resources they needed to meet their responsibilities, always supposing that, in order to be effective, all programmes intended for children and teenagers should be part of a multidisciplinary strategy.

49. She asked whether every effort was made to reunite natural families and to assist families in difficulty before placing children with foster families or in institutions. In that connection, she would like to know whether the teams working with children received training and whether risk-prediction activities were conducted. She also asked how social workers were being prepared to implement the new child care system.

50. Noting that, because of delays in inquiry procedures, people who had committed rape or incest were released on bail, she asked whether judges were given special training in trying cases involving violence (especially sexual violence) towards children and whether NGOs, for example, conducted activities designed to raise judges' awareness of the problems encountered in that area.

51. Clarifications concerning the functioning of day-care services for children would be welcome.

52. She asked what strategies were applied in relation to child heads of household. She would like to know the impact of the child welfare programme in the rural areas. She suggested

that the maximum age for the dependent child allowance should be raised, and noted that UNAIDS might provide the State party with valuable help in combating AIDS.

53. Ms. SARDENBERG asked how the Truth and Reconciliation Commission had applied the principle of the best interests of the child when its work had led it to inquire into cases of violations of children's rights. Had it used special procedures, in particular to hear children's views?

54. Ms. RILANTONO asked whether there were plans to establish an ombudsman's post for receiving complaints concerning sexual abuse of children. She would like to know whether programmes to combat the break-up of families included activities designed to enhance parenting skills.

55. Noting that life expectancy had not increased since the end of apartheid, she asked how the Government intended to strengthen its public health policy. She would like to know why infectious diseases remained the primary cause of infant mortality and what concrete measures were being taken to combat tuberculosis, especially in HIV-positive children or children with AIDS.

56. She asked whether the Government had taken steps to prohibit advertising for infant formula and would like to know its position on genital mutilation. Noting that despite the existence of a good primary health and welfare system for children the mortality rate remained high, she asked what the Government intended to do in order to rectify the situation.

The meeting rose at 6.05 p.m.